

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	CASE NO. 21-30725 (DRJ)
BRAZOS ELECTRIC POWER	§	
COOPERATIVE, INC.,	§	Chapter 11
	§	
Debtor. ¹	§	

**DECLARATION OF KHAKI BORDOVSKY
IN SUPPORT OF CONFIRMATION OF THE AMENDED CHAPTER 11 PLAN OF
REORGANIZATION OF BRAZOS ELECTRIC POWER COOPERATIVE, INC.**

I, Khaki Bordovsky, pursuant to section 1746 of title 28 of the United States Code, hereby declare that the following is true to the best of my knowledge, information, and belief:

Background and Qualifications

1. I am the Vice President of Services for Brazos Electric Power Cooperative, Inc. (“Brazos” or the “Debtor”) and have served in this role since 2000 and been employed by Brazos since 1993. Brazos is a non-profit electric cooperative corporation organized under the laws of the state of Texas pursuant to section 161.059 of the Texas Utilities Code and is the debtor and debtor in possession in this case.

2. I submit this declaration (the “Declaration”) in support of confirmation of the *Amended Chapter 11 Plan of Reorganization of Brazos Electric Power Cooperative, Inc.*, dated October 27, 2022 [Dkt. No. 2440-1] (as may be amended, modified, or supplemented in accordance with the terms thereof, the “Plan”), including the agreements and other documents set forth in the *Notice of Filing of Plan Supplement* [Dkt. No. 2420] (as may be amended, modified,

¹ The Debtor in this chapter 11 case, along with the last four digits of its federal tax identification number is: Brazos Electric Power Cooperative, Inc. (4729). Additional information regarding this case may be obtained on the website of the Debtor’s claims and noticing agent at <http://cases.stretto.com/Brazos>. The Debtor’s address is 7616 Bagby Avenue, Waco, Texas 76712.

or supplemented in accordance with the Plan, the “Plan Supplement”), pursuant to sections 1125 and 1129 of the Bankruptcy Code.²

3. I have approximately 30 years of experience in the energy industry, including extensive experience in the public-power sector since joining Brazos in 1993. Prior to becoming the Vice President of Services, I held numerous positions with Brazos in plant property accounting, general accounting, as a supervisor of accounting, and as controller. I was also Vice President of Services and Risk Management for a period of time before Brazos separated the risk group from the services group. I have a bachelor of arts degree in Communications from Baylor University, and a second major in Accounting from the University of Texas at Arlington. I am a certified public accountant and licensed in the State of Texas.

4. As Vice President of Services, I supervise Brazos’s finance and accounting departments and also supervise Brazos’s human resources, corporate IT, purchasing, and facility management functions. I function as Brazos’s chief financial officer, and I am ultimately responsible for all finance and accounting functions at Brazos, including the preparation of Brazos’s consolidated financial statements, all required tax filings, financial forecasts, operating budgets, tariff rates, monthly power bills, and all other cash and financing requirements. I report directly to Brazos’s Executive Vice President and General Manager, Clifton Karnei.

5. As a result of my time with Brazos generally and my role as Vice President of Services specifically, as well as my review of relevant documents and my discussions with other members of Brazos’s management team and professional advisors, I am familiar with Brazos’s day-to-day operations, business, financial affairs, books and records, and restructuring efforts.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan or the Disclosure Statement, as applicable.

6. Except as otherwise indicated, all facts set forth in this Declaration are either based on my personal knowledge, information obtained from Brazos's management team and advisors, my review of documents and information concerning Brazos's operations, financial affairs, and restructuring initiatives, or my opinions based upon my experience and knowledge. I have relied in part on information and materials that the Debtor's personnel and advisors have gathered, prepared, verified, and provided to me, in each case under my ultimate supervision, at my direction, or for my benefit in preparing this Declaration.

7. If called upon to testify, I could and would testify competently to the facts set forth herein. I am duly authorized to submit this Declaration.

Brazos Will Have Sufficient Funds to Make Distributions Under the Plan

8. In connection with proposing and presenting the Plan to the Court for Confirmation, I, along with the rest of Brazos's management team and Brazos's advisors, thoroughly analyzed Brazos's ability to meet its obligations under the Plan and to continue as a going concern without the need for a further financial restructuring. As part of that process, I, along with Brazos's management and Brazos's financial advisors, prepared the document affixed to the Disclosure Statement as Exhibit B, which contains financial projections (the "Financial Projections") for the Reorganized Debtor for the fiscal years 2023 through 2027, which were reviewed and approved by Brazos's Board of Directors.

9. Based upon my knowledge of and experience with Brazos's operations and finances over my approximately 30-year career with Brazos, the materials provided to me by Brazos's management team and financial advisors, and the assumptions identified in the Financial Projections, I believe the Financial Projections represent a reasonable, good faith, forecast of the Reorganized Debtor's future performance, operations, and liquidity. Based upon the foregoing, the Financial Projections, the sources of Plan funding described below, and the amount and timing of

distributions under the Plan, Brazos will be able to make all payments required under the Plan.

10. The Reorganized Debtor will fund distributions under the Plan through a combination of (i) the TAA Proceeds; (ii) the proceeds and loans available under the Exit Facility and the RUS Exit Financing; (iii) Cash on hand; (iv) Generation Sale Proceeds (net of any transaction expenses in accordance with Plan and subject to the terms and conditions of the Amended and Restated RUS Secured Notes Documents); and (v) any other assets, sources of funding, or other consideration available to Brazos.

TAA Proceeds from the Participating Member Securitization

11. Of Brazos's sixteen (16) distribution-cooperative members (each a "Member", and collectively, the "Members"), fifteen (15) have a TAA Balance.³ Of those fifteen, ten (10) Members are Participating Members who will fund the payment of their respective TAA Balances through their participation in the Participating Member Securitization led by J.P. Morgan Securities LLC ("JPMorgan"). The ten Participating Members are: (i) Bartlett Electric Cooperative, Inc.; (ii) Cooke County Electric Cooperative, Inc., d/b/a PenTex Energy; (iii) Fort Belknap Electric Cooperative, Inc.; (iv) Hamilton County Electric Cooperative, Inc.; (v) Heart of Texas Electric Cooperative, Inc.; (vi) HILCO Electric Cooperative, Inc.; (vii) Mid-South Electric Cooperative Association; (viii) Navarro County Electric Cooperative, Inc.; (ix) Navasota Valley Electric Cooperative, Inc.; and (x) Wise Electric Cooperative, Inc.

12. As described in the Declaration of Marquis Gilmore, Brazos Securitization LLC, a bankruptcy remote special purpose entity, will issue securitized bonds pursuant to Texas Senate Bill 1580 ("SB 1580") and the financing orders adopted by the boards of each Participating Member. The Participating Members have agreed and committed to apply the proceeds of the

³ One Member, South Plains Electric Cooperative, Inc. does not have a TAA Balance.

bonds in accordance with the Plan, which will be used to satisfy each Participating Member's TAA Balance and pay certain qualified costs, including amounts owed to ERCOT under the Plan. Brazos will serve as Master Servicer for the Participating Member Securitization.

13. Based on my involvement in the Participating Member Securitization and the documents and information the Participating Members have provided to Brazos and JPMorgan, I expect the Participating Member Securitization will close in December 2022, and it is my firm belief that proceeds from the Participating Member Securitization, amounting to a total of approximately \$684,368,718 will be paid to the TAA Escrow Agent in accordance with the Plan and the TAA Escrow Agreement after entry of the Confirmation Order.

TAA Proceeds from Other Member Securitizations

14. Two of Brazos's Members, Denton County Electric Cooperative, Inc. d/b/a CoServ ("CoServ") and United Electric Cooperative Services, Inc., d/b/a United Cooperative Services ("United") have elected to pursue their own securitizations under SB 1580 (the "CoServ Securitization" and the "United Securitization"). As described in the Declarations of Donnie Clary and Russell Young, both the CoServ Securitization and the United Securitization are expected to close simultaneously with or shortly before the Participating Member Securitization. Based on my knowledge of the status of the CoServ Securitization and the United Securitization, it is my firm belief that the proceeds from the CoServ Securitization, in the amount of approximately \$450,910,027, and the United Securitization, in the amount of approximately \$430,781,177, will be paid to the TAA Escrow Agent in accordance with the Plan and the TAA Escrow Agreement after entry of the Confirmation Order.

TAA Proceeds from Other Member Financings

15. Three of Brazos's Members have elected to obtain other financing to pay their TAA Balances. J-A-C Electric Cooperative, Inc. ("J-A-C") has obtained financing for its TAA Balance

of approximately \$13,176,209 from National Rural Utilities Cooperative Finance Corporation (“CFC”) (the “J-A-C Financing”). J-A-C has already closed on the J-A-C Financing, and CFC has provided J-A-C with the proceeds from the J-A-C Financing to pay its TAA Balance. Based on my knowledge of the status of the J-A-C Financing, and the information and documentation J-A-C has provided to Brazos, it is my firm belief that the proceeds from the J-A-C Financing will be paid to the TAA Escrow Agent in accordance with the Plan and the TAA Escrow Agreement after entry of the Confirmation Order.

16. Comanche County Electric Cooperative Association (“Comanche”) has received a commitment from RUS for financing to cover Comanche’s TAA Balance of approximately \$28,982,671 (the “Comanche Financing”). Comanche has provided Brazos with documentation sufficient to establish RUS’s commitment to provide the Comanche Financing, and Brazos has been working with Comanche to ensure that the Comanche Financing closes. Based on my knowledge of the status of the Comanche Financing, and the information and documentation Comanche has provided to Brazos, it is my firm belief that the Comanche Financing will close as scheduled and that Comanche will have the proceeds from the Comanche Financing available upon confirmation of the Plan. It is my firm belief that those proceeds will be paid to the TAA Escrow Agent in accordance with the Plan and the TAA Escrow Agreement after entry of the Confirmation Order.

17. As described in the Declaration of Darryl Schriver, Tri-County Electric Cooperative, Inc. (“TCEC”) has received a commitment from CoBank, ACB for financing to cover TCEC’s TAA Balance of approximately \$476,747,686 (the “TCEC Financing”). TCEC has represented to Brazos that the TCEC Financing has closed and that the funds from the TCEC Financing will be paid to the TAA Escrow Agent in accordance with the Plan and TAA Escrow

Agreement after entry of the Confirmation Order.

18. Based on my extensive direct experience with cooperative financing over my 30-year career with Brazos, as well as my involvement with the Participating Member Securitization, and my knowledge of and documents and other information provided to me regarding the CoServ Securitization, the United Securitization, the J-A-C Financing, the Comanche Financing, and the TCEC Financing, it is my firm belief that the TAA Proceeds will be paid to the TAA Escrow Agent in accordance with the Plan and the TAA Escrow Agreement after entry of the Confirmation Order and prior to the Effective Date, and that the TAA Proceeds will be available for distribution in accordance with the Plan on the Effective Date.

The Exit Facility

19. Pursuant to the DIP Credit Agreement and DIP Order, the DIP Lenders, including JPMorgan Chase Bank, N.A. as DIP Agent, have provided Brazos with the DIP Facility, consisting of a \$350,000,000 revolving credit facility. Under the terms of the Plan and the Plan Supplement, upon confirmation of the Plan, the DIP Facility will be converted into the Exit Facility.

20. I have been directly involved in the negotiation of the Exit Facility, including the Exit Facility Term Sheet attached as Exhibit K to the Plan Supplement, and have received the Commitment Letter. Based on my involvement in the negotiation of the Exit Facility, the Exit Facility Term Sheet, and my knowledge of Brazos's finances and operations, including Brazos's historical relationship with its lenders generally and the Exit Facility Lenders specifically, it is my firm belief that the Exit Facility will close and be available to the Reorganized Debtor on or before the Effective Date.

21. As described in the Exit Facility Term Sheet, the Exit Facility will provide the Reorganized Debtor with a revolving credit facility in the same \$350,000,000 amount as has been available to Brazos under the DIP Facility, in accordance with the terms, conditions, and other

provisions of the Exit Facility. With respect to distributions under the Plan, the Exit Facility provides availability of (i) \$80 million at the Effective Date (the “First Plan Distributions Revolving Loan”); and (ii) \$150 million at the Generation Sale Closing Date (the “Second Plan Distributions Revolving Loan”). The Second Plan Distributions Revolving Loan is available only to the extent that the First Plan Distributions Revolving Loan has been paid down in full. The Second Plan Distributions Revolving Loan, if drawn, must be paid down in full by June 2024.

The RUS Exit Financing

22. The Reorganized Debtor will also have the RUS Exit Financing available to it, consisting of the AU8FFB Note and the RUS Contingency Exit Note. Prepetition, Brazos sought and obtained authorization for the AU8 FFB Note, dated as of December 15, 2020, issued to Brazos and payable to the FFB in the face principal amount of \$128,990,000. The AU8 FFB Note is secured by the RUS Indenture and governed by the terms of the RUS Loan Contract. Prepetition, Brazos had completed certain capital projects that were designated to be reimbursed pursuant to the AU8 FFB Note, but the note was not funded prior to the Petition Date.

23. Pursuant to the Plan, and subject to the Amended and Restated RUS Secured Notes Documents, the RUS Secured Parties have agreed to fund the AU8 FFB Note in the aggregate amount of \$128,990,000. Those funds will be available to Brazos on or before the Effective Date.

24. I have been directly involved in the negotiation of the RUS Contingency Exit Note, which will be provided to the Reorganized Debtor by the RUS Secured Parties pursuant to the RUS Indenture and RUS Loan Contract in a loan designated as the “AV49” Loan in the principal amount of up to \$178,035,000. The RUS Contingency Exit Note is further described in Exhibits L-1 and L-2 of the Plan Supplement, which consist of the current drafts, subject to ongoing negotiation between Brazos and RUS, of the Seventh Supplemental RUS Indenture and Sixth Amended and Restated RUS Loan Contract respectively.

25. As described in Exhibit L-2, the Reorganized Debtor will use the RUS Contingency Exit Note, as needed, to finance the repayment of claims remaining on or after the Generation Sale Closing Date. Based on my direct involvement in the negotiation of the RUS Contingency Exit Note, and my knowledge of Brazos's finances and operations, including Brazos's historical relationship with its lenders generally and RUS specifically, it is my firm belief that the RUS Contingency Exit Note will be available to the Reorganized Debtor on or before the Generation Sale Closing Date. In addition, the RUS Roll-Up Loans will be "rolled back" down in accordance with the Plan.

The Generation Sale Proceeds and Other Sources

26. As part of the Plan, Brazos has begun and will consummate a sale of its Generation Assets in one or more transactions. This process is well underway and will be complete within one year of the Effective Date, and likely much sooner.

27. Any and all Generation Sale Proceeds net of the Generation Debt Paydown and all transaction fees and expenses related to the Generation Sale will be used by Brazos to fund any remaining unpaid portion of the Interim Distribution Obligations. Any Generation Sale Proceeds remaining after the payment of the Interim Distribution Obligations, and the payment of the RUS Contingency Exit Note in full, shall be retained by the Reorganized Debtor to be used in the Reorganized Debtor's discretion, subject to the RUS Secured Parties' consent as described in the Plan and the Amended and Restated RUS Secured Notes Documents.

28. On the Effective Date, Brazos will also receive approximately \$34 million in "CRR" collections currently held by ERCOT. Additionally, on the Effective Date, the Cushion of Credit will be applied to partially retire the RUS Secured Notes in the amount of approximately \$99,475,809.

29. Brazos also anticipates using approximately \$132 million of cash that is on hand or

otherwise available through the First Plan Distributions Revolving Loan of the Exit Facility on the Effective Date to make distributions, leaving sufficient cash on hand to operate the Reorganized Debtor's business

30. In total, as of the Effective Date, Brazos anticipates having approximately \$2,380,018,591 available for Plan distributions as shown below:

Sources to Fund Payments at Effective Date	Amount
<u>On-Balance Sheet Financings</u>	
J-A-C	\$ 13,176,209
Comanche	28,982,671
Tri-County	476,747,686
<u>Single Member Securitizations</u>	
CoServ	450,910,027
United	430,781,177
<u>Other</u>	
Participating Member Securitization	684,368,718
RUS Exit Financing (FFB AU8 Note)	128,990,000
ERCOT Receivable	34,000,000
Brazos	132,062,104
Total	<u>\$ 2,380,018,591</u>

**The Reorganized Debtor Will be Able to Make the Payments
and Distributions Under the Plan**

31. As set forth in the Financial Projections, the proceeds from the Participating Member Securitization, CoServ Securitization, United Securitization, J-A-C Financing, Comanche Financing, TCEC Financing, Exit Facility, RUS Exit Financing, the Generation Sale Proceeds, and the cash on hand or otherwise available on the Effective Date will enable the Debtor or the Reorganized Debtor, as applicable, to make all payments and distributions pursuant to the Plan.

32. On or before the Effective Date, the Reorganized Debtor or TAA Escrow Agent, as applicable, will make the following payments: (i) all Allowed Administrative Claims, (ii) the Initial Market Participant Cash Payment, (iii) the Initial GUC Cash Payment, (iv) any payments with respect to the Tort Convenience Recovery, and (v) any payments with respect to the GUC

Convenience Recovery. To the extent an Administrative Claim is not allowed as of the Effective Date, the Reorganized Debtor will make payments in respect of those claims in accordance with the Plan in the event such claims are Allowed.

33. On the Effective Date, the Reorganized Debtor also will cause the Hardship Fund Contribution to be deposited with the Hardship Fund Administrator, will make all necessary payments with respect to any Cure Claims, and will fund the Professional Fee Reserve.

34. In total, the Debtor anticipates Plan distributions on or before the Effective Date of approximately \$2,380,018,591, as shown below:

Payments under the Plan at Effective Date	Amount
Hardship Fund Contribution	\$ 140,000,000
Section 503(b)(9) Claims	303,868,815
Other Secured Claims	130,552,020
Cure Costs	46,696,711
Initial ERCOT Cash Payment	599,709,610
Initial Market Participant Cash Payment	553,819,122
SCEA First Tranche of Allowed GUC Claim	105,440,253
Tort / GUC Convenience Class Recoveries	1,238,781
Initial GUC Cash Payment	<u>498,693,279</u>
Total	<u>\$ 2,380,018,591</u>

35. On or before the Generation Sale Outside Date, the Reorganized Debtor will make the following payments: (i) the additional Market Participant Cash Payment in the amount of \$116,600,000 and (ii) the Additional GUC Cash Payment in the amount of approximately \$332,458,062. The Reorganized Debtor will fund these payments using a combination of (i) Generation Sale Proceeds, net of the Generation Debt Paydown; (ii) up to \$178,035,000 of borrowing under the RUS Contingency Exit Note, if needed; (iii) Brazos cash on hand, if needed; and (iv) up to \$150,000,000 of borrowing under the Second Plan Distributions Revolving Loan of the Exit Facility, if needed.

36. On the anniversary of the Effective Date, and on each anniversary thereafter through the twelfth anniversary of the Effective Date, the Reorganized Debtor will make the

Installment Market Participant Cash Payments, which will largely be funded through the Reorganized Debtor's operations based on the Financial Projections.

**The Reorganized Debtor Will be Able to Successfully Operate its Business
Following the Effective Date**

37. Through the Plan, the Debtor will be able to (i) right-size its balance sheet by, among other things, satisfying its debt, (ii) settle and finally resolve the complex claims litigation with (a) ERCOT and the Defendant Intervenors, (b) the Members, (c) SCEA, (d) BSCEC, (e) Tenaska Power, and (f) the Committee, and (iii) restructure the Debtor's business in such a way that maximizes recovery to all creditors, while ensuring that the Debtor remains a financially strong and competitive enterprise upon emergence.

38. Upon the Effective Date, the Reorganized Debtor will be a G&T Cooperative and is projected to sell the Generation Assets pursuant to the Plan within 12 months of the Effective Date. In accordance with the Amended ARCs, the Reorganized Debtor will cease its power supply function effective March 1, 2023, the Amended ARC Effective Date, irrespective of whether the Generation Assets have been sold as of that date.

39. After the Amended ARC Effective Date and the Generation Sale Closing Date, or the Generation Sale Outside Date, as applicable, the Reorganized Debtor will be a T&D Cooperative that will continue to provide T&D services to the Members and will be a Transmission Service Provider ("TSP") in the PUCT's Transmission Cost of Service ("TCOS") system for regulating rates earned by TSPs.

40. The Reorganized Debtor will continue to bill the Members for T&D services and will reduce costs, for the benefit of Members, through the Reorganized Debtor's net margins by executing transmission capital projects that will earn a PUCT-approved TCOS rate of return. The Reorganized Debtor also will execute distribution capital projects to facilitate the Members'

growth.

41. Brazos's retirement plans will be assumed as part of the Plan, and there will be no impact to those obligations. Additionally, Brazos will have sufficient resources, including its existing insurance policies, to any tort claimants who do not elect convenience treatment under the Plan.

42. As set forth in the Financial Projections, it is my firm belief that the Reorganized Debtor will be able to make all payments under the Plan (including, without limitation, the Installment Market Participant Cash Payments) while conducting ongoing business operations as a T&D Cooperative without the need for a future restructuring.

43. On the Effective Date, liabilities on the Brazos balance sheet will be reduced by approximately \$3.2 billion through payment of claims and through settlements embodied in the Plan. Brazos's secured funded debt will be reinstated and, within twelve months of the Effective Date, the Reorganized Debtor expects to close on the sale of the Generation Assets, which Brazos forecasts will yield Generation Sale Proceeds in excess of the Generation Debt Paydown and the Interim Distribution Obligations remaining to be paid, in which case the amount required to be drawn under the RUS Contingency Exit Note will be reduced from \$178,035,000. The Exit Facility will continue to be available to the Reorganized Debtor for its working capital needs following the Generation Sale.

44. As a result, the Debtor will be well-positioned when it emerges from bankruptcy to meet its obligations under the Plan and operate its business going forward. Based on my experience with Brazos and its finances and operations and the Financial Projections, the Reorganized Debtor will be able to operate as a going concern business, and Brazos's reorganization is not likely to be followed by a liquidation or the need for a further financial reorganization.

Dated: November 10, 2022
Houston, Texas

/s/ Khaki Bordovsky

Khaki Bordovsky
Vice President of Services
Brazos Electric Power Cooperative, Inc.